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Letter dated 16 November 2012 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I should be grateful if you would transmit these assessments to the members of the Security Council.

(*Signed*) Theodor **Meron**
President

12-59600 (E) 301112

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Annex I

[Original: English and French]

Assessment and report of Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004), and covering the period from 23 May 2012 to 16 November 2012

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1. The present report is submitted pursuant to Security Council resolution 1534 (2004), adopted on 26 March 2004, in which the Security Council, in paragraph 6, requested the International Tribunal for the Former Yugoslavia to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the completion strategy of the Tribunal, explaining what measures have been taken to implement the completion strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower ranking accused to competent national jurisdictions.[1]

2. This report also includes a summary of the measures that the Tribunal is undertaking to ensure a smooth transition to the Mechanism for International Criminal Tribunals.

I. Introduction

3. At the close of the reporting period, 18 individuals are on trial, and 15 individuals are in appeal proceedings. With the arrests of Ratko Mladić and Goran Hadžić, there are no outstanding fugitives. To date, the Tribunal has concluded proceedings against 128 of the 161 individuals indicted by the Tribunal. It anticipates concluding all trials during 2013, except those of Mladić, Hadžić and Radovan Karadžić, whose arrests occurred much later than those of other accused.

4. During the reporting period, the Tribunal conducted nine trials in its three courtrooms, expediting the overall pace of proceedings by assigning judges and staff to multiple cases. One appeal judgement and one contempt appeal judgement were rendered, and scheduling orders setting the dates of delivery for two trial judgements and one additional appeal judgement were filed.

5. Appeals from five trial judgements, involving 15 appellants, are currently pending before the Appeals Chamber. The judges of the Appeals Chamber also remained fully engaged in hearing appeals from the International Criminal Tribunal for Rwanda, rendering one judgement and hearing oral arguments in one additional case during the reporting period.

6. The Tribunal took all measures possible to expedite its trials, without sacrificing due process. The Tribunal's trials and appeals continue to be affected by the loss of highly experienced staff members. This challenge has the potential to delay the judgement completion dates set out in this report.

7. The Tribunal has transferred all low- and mid-level accused from its trial docket in accordance with Security Council resolution 1503 (2003). The Office of the Prosecutor, with the assistance of the Organization for Security and Cooperation

[1] The present report should be read in conjunction with the previous 17 reports submitted pursuant to Security Council resolution 1534 (2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007; S/2007/663 of 12 November 2007; S/2008/326 of 14 May 2008; S/2008/729 of 24 November 2008; S/2009/252 of 18 May 2009; S/2009/589 of 13 November 2009; S/2010/270 of 1 June 2010; S/2010/588 of 19 November 2010; S/2011/316 of 18 May 2011; S/2011/716 of 16 November 2011; and S/2012/354 of 23 May 2012.

in Europe (OSCE), continued to monitor the progress of the one remaining case where national judicial proceedings have not yet been completed.

8. The Tribunal undertook a variety of initiatives aimed at providing assistance and support to victims and pursued a number of legacy and capacity-building projects. The Outreach Programme continued its efforts to bring the Tribunal closer to communities in the former Yugoslavia. The Tribunal also worked tirelessly to ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals.

II. Measures taken to implement the completion strategy

9. In the face of many challenges during the reporting period, the Tribunal continued to implement various reforms to improve the functioning of several sections of the Tribunal, including the work speed of drafting teams. The reforms included beginning judgement drafting earlier, embedding translators into drafting teams where appropriate and expediting the translation of trial briefs.

10. The President of the Tribunal also conducted individual meetings with drafting team leaders and judges. The purpose of these meetings was to identify any obstacles to expeditious completion of trials or appeals that the President could assist in overcoming. The President has also promoted additional training opportunities aimed at improving staff members' ability to work rapidly and efficiently.

11. In 2009, the Security Council, noting that the Appeals Chamber of the Tribunal would be faced with an expanded workload in its final years, authorized the redeployment of four judges from the Trial Chambers of the Tribunal to the Appeals Chamber (resolution 1877 (2009)). However, the assignment of trial judges to the cases of recently arrested indictees has to date prevented any such redeployment. The President is currently considering what action, if any, to take in response to this situation.

12. As additional illustration of the steps taken by the Chambers to guarantee that proceedings are conducted in a manner that is both expeditious and fair, brief summaries of cases currently before the Tribunal are provided below. Where previously reported projections for judgement delivery have been revised, the unforeseen factors that led to that revision are set out.

A. Trial proceedings

13. In the case of *Prosecutor v. Ramush Haradinaj et al.*, a scheduling order was issued announcing that the trial judgement would be delivered on 29 November 2012. This is the first retrial at the Tribunal.

14. In the case of *Prosecutor v. Zdravko Tolimir*, a scheduling order was issued announcing that the trial judgement would be delivered on 12 December 2012.

15. In the case of *Prosecutor v. Goran Hadžić*, the accused is charged with 14 counts of crimes against humanity and violations of the laws or customs of war. The trial commenced on 16 October 2012, and the trial judgement is expected in December 2015.

16. In the case of *Prosecutor v. Radovan Karadžić*, the accused is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war. The trial's projected time frame is unchanged and the trial judgement is expected in December 2014.

17. In the case of *Prosecutor v. Ratko Mladić*, the accused is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war. The trial judgement is expected in second or third quarter of 2016.

18. In the case of *Prosecutor v. Jadranko Prlić et al.*, the six accused are charged with 26 counts of crimes against humanity and violations of the laws or customs of war. The trial's projected time frame has been revised, and the trial judgement is now expected in March 2013, four months later than previously anticipated.

19. Delay in delivery of the trial judgement is attributable to two factors. The first relates to the workload of the judges and legal staff. All judges and several legal staff members are concurrently assigned to other trials and are thus prevented from concentrating all their efforts on judgement drafting for this case. The second relates to staff attrition, which has been particularly severe in this case. Since the beginning of the trial, there have been four different senior legal officers assigned to the case in succession, as well as five different legal officers. In addition, one associate legal officer who worked on the *Prlić et al.* team for nearly four years resigned in early March 2012 and was replaced by a newly recruited associate legal officer, who is still in the process of becoming familiar with the extensive trial record.

20. The judges and legal support team are taking a variety of measures to expedite preparation of the trial judgement, including embedding a translator in the legal support team to speed the pace of translation and recruiting an additional legal officer to assist in judgement drafting.

21. In the case of *Prosecutor v. Vojislav Šešelj*, the accused is charged with nine counts of crimes against humanity and violations of the laws or customs of war. The trial's projected time frame has been revised, and the trial judgement is now expected no earlier than July 2013, at least four months later than previously anticipated.

22. Delay in delivery of the trial judgement is attributable to three factors. The first relates to the workload of the judges and legal staff. All judges and several legal staff members are concurrently assigned to other trials and are thus prevented from concentrating all their efforts on judgement drafting for this case. The second relates to staff attrition, which has been severe in this case. Two staff members with key supervisory responsibilities have departed or will soon depart, and their replacements need additional time to become fully conversant with details in the case. The third relates to the fact that an unexpected number of additional complex motions have been filed, which has further increased the workload for judges and legal staff members.

23. The judges and legal support team are taking a variety of measures to expedite preparation of the trial judgement, including embedding a translator in the legal support team to speed the pace of translation and recruiting additional legal staff members to assist in judgement drafting.

24. In the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, the two accused are charged with five counts of crimes against humanity and violations of

the laws or customs of war. The trial's projected time frame has been revised and the trial judgement is now expected in March 2013, three months later than previously anticipated.

25. Delay in delivery of the trial judgement is caused by two factors. First, the number and size of defence bar table motions seeking admission of evidence were significantly larger than anticipated. Decisions on those motions were only completed in September 2012, and the Chamber is currently seized of a number of rebuttal motions filed by the Prosecution. Secondly, the presiding judge of the case and several legal staff members are concurrently assigned to other trials and are thus prevented from concentrating all their efforts on judgement drafting for this case.

26. The judges and legal support team are taking a variety of measures to expedite preparation of the trial judgement, though delay is primarily caused by factors external to the drafting process. Judges have arranged the schedules of other trials to which they are assigned to allow additional uninterrupted deliberation time.

27. In the case of *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, the two accused are charged with 10 counts of crimes against humanity and violations of the laws or customs of war. The trial's projected time frame has been revised and the trial judgement is now expected in March 2013, three months later than previously anticipated.

28. Delay in delivery of the trial judgement is caused by three factors. First, the defence filed extensive challenges contesting the assertion by the prosecution that 1,728 named persons were murdered during the indictment period. Litigation over this issue was delayed owing to a State's late compliance with orders pursuant to rule 54 *bis* of the Rules of Procedure and Evidence of the Tribunal issued by the Trial Chamber in relation to material sought by the defence to rebut the prosecution's allegations. This litigation was only completed on 20 July 2012. Secondly, levels of staff turnover have been particularly significant — all but one legal staff member assigned to the case changed over the last 16 months. Thirdly, several judges and staff members are concurrently assigned to other trials and are thus prevented from concentrating all their efforts on judgement drafting for this case.

29. The judges and legal support team are taking a variety of measures to expedite preparation of the trial judgement. Two additional associate legal officers have been assigned to the case, and judges have arranged the schedules of the other trials to which they are assigned to allow additional significant uninterrupted deliberation time for this trial.

30. As the above summary of ongoing trials indicates, there is a significant likelihood that the Tribunal will not be able to complete the trial or appellate judicial proceedings involving Karadžić, Mladić and Hadžić by 31 December 2014, the date for completion indicated by the Security Council in its resolution 1966 (2010). In those three cases, the delayed arrests of the indicted individuals make it very difficult to meet the deadlines requested by the Security Council, despite the Tribunal's best efforts.

B. Contempt proceedings

31. The Tribunal's trial schedule continued to be disrupted by the need to prosecute alleged acts of contempt. However, the Tribunal is taking the measures it can to ensure that all contempt cases are concluded as quickly as possible without affecting ongoing trials.

32. The contempt appeal judgement in the case of *Prosecutor v. Jelena Rašić* was delivered on 16 November 2012, dismissing the appeals of both the Prosecutor and Rašić.

33. In the case of *Prosecutor v. Vojislav Šešelj (Case No. IT-03-67-R77.3-A)*, the amicus curiae prosecutor has appealed the sentence that was imposed upon Šešelj for contempt of the Tribunal. The briefing for the appeal was completed on 23 August 2012. The contempt appeal judgement is now expected by December 2012.

34. In the case of *Prosecutor v. Vojislav Šešelj (Case No. IT-03-67-R77.4)*, Šešelj has appealed his conviction for contempt of the Tribunal. He was sentenced to a single term of imprisonment of two years. The briefing for the appeal was completed on 2 August 2012. The contempt appeal judgement is now expected by January 2013.

C. Appeal proceedings

35. The appeal judgement in the case of *Prosecutor v. Ante Gotovina and Mladen Markač* was delivered on 16 November 2012, reversing all of Gotovina's and Markač's convictions.

36. In the case of *Prosecutor v. Milan Lukić and Sredoje Lukić*, a scheduling order was issued announcing that the appeal judgement would be delivered on 4 December 2012.

37. In the case of *Prosecutor v. Vlastimir Đorđević*, the appeal's projected time frame is unchanged and the appeal judgement is expected in October 2013. The case is being prepared for the appeal hearing, which is projected to take place in early 2013.

38. In the case of *Prosecutor v. Momčilo Perišić*, the appeal's projected time frame has been revised and the appeal judgement is expected in March 2013, three months earlier than reported previously. The appeal has progressed faster than expected as a result of a comparatively light pre-appeal workload and initiatives to organize the drafting team and its pre-appeal activities in a particularly efficient manner. The appeal hearing was held on 30 October 2012.

39. In the case of *Prosecutor v. Vujadin Popović et al.*, the appeal's projected time frame has been revised and the appeal judgement is now expected in July 2014, four months earlier than previously anticipated. Despite being one of the largest and most complex appeals in the Tribunal's history, appeal preparations have progressed faster than previously forecast due to the addition of staff members to the drafting team and lighter-than-anticipated additional briefing by the parties.

40. In the case of *Prosecutor v. Nikola Šainović et al.*, the projected time frame for delivery of the appeal judgement has been revised and the appeal judgement is now

expected in December 2013, five months later than previously anticipated. An appeal hearing is expected in March 2013.

41. Delay in delivery of the appeal judgement is caused by two factors. First, the appeal is one of unprecedented complexity, requiring more time-consuming analysis than anticipated. The operative submissions of all appellants amount to approximately 4,300 pages, resulting in an unusually large appeal proceeding. Owing to the sheer size of the appeal of a 1,743-page trial judgement, a number of time extensions were granted to the appellants in order to safeguard the fairness of the proceedings. Although the primary phase of appellate briefing was completed in February 2010, supplementary submissions continued to be filed for a variety of reasons. Addressing the sheer volume of submissions while harmonizing assessments of all appellants' arguments has required more time than anticipated. Secondly, staff turnover has been particularly significant on this appeal, especially among senior staff, and new drafting team members have required more time than anticipated to become familiar with the voluminous case record. In addition, the remaining senior staff members have been required to assume additional managerial and review functions, further contributing to delays.

42. The judges and legal support team are taking a variety of measures to expedite preparation of the appeal judgement. These include rearranging the presiding judge's schedule so that he is able to devote additional time to the case and making additional efforts to reduce staff turnover.

43. During the reporting period, the Appeals Chamber of the International Criminal Tribunal for Rwanda delivered one judgement, in the *Jean-Baptiste Gatete v. The Prosecutor* case. The Appeals Chamber also heard an appeal from judgement in the *Justin Mugenzi and Prosper Mugiraneza v. The Prosecutor* case.

44. Despite the Tribunal's continuing efforts, it is currently anticipated, as forecasted in both the Tribunal's report to the Security Council of May 2012 and in the appeal chart enclosed with this report, that the Tribunal will have difficulty in completing any appeals in the *Prlić et al.*, *Stanišić and Župljanin*, and *Tolimir* cases by 31 December 2014 as requested by the Security Council resolution in its 1966 (2010). Should such appeals be filed, the Appeals Chamber of the Tribunal would function concurrently with the Appeals Chamber of the Residual Mechanism. Further, appeals in the *Hadžić*, *Karadžić*, *Mladić* and *Šešelj* cases, if any, are likely to be filed after 1 July 2013 and will therefore fall to the Residual Mechanism pursuant to Security Council resolution 1966 (2010).

D. Access decisions

45. The bench constituted to decide requests for access to confidential information for use in national proceedings under rules 75(g), 75(h) and 75 *bis* of the Rules of Procedure and Evidence continued to function in an efficient manner, rendering 10 decisions during the reporting period.

III. Retention of staff

46. As the Tribunal nears the end of its mandate, essential staff continue to leave the Tribunal for more secure employment elsewhere. The loss of experienced staff

members has significantly impacted proceedings, has placed an onerous burden upon the Tribunal's remaining staff and is responsible for some delays in the completion of the Tribunal's work.

47. The Tribunal is actively seeking to identify administrative measures to retain talented staff members and interns. Unfortunately, proposals made by the Tribunal for a financial retention incentive for staff members were not endorsed by the General Assembly despite the considerable cost savings and efficiency gains such an incentive would have allowed. Member State support for future Tribunal proposals with respect to staff retention will be critical to their success.

IV. Referral of cases

48. Between 2005 and 2007, the Tribunal referred a total of eight cases, involving 13 accused of intermediate or lower rank, to national jurisdictions in accordance with Security Council resolutions 1503 (2003) and 1534 (2004). This significantly reduced the overall workload of the Tribunal, making it possible to bring the cases of the most senior leaders to trial as early as possible. The referral of these cases to national jurisdictions also aided in improving the Tribunal's relationship with national judiciaries in the former Yugoslavia and in strengthening the capacity of those jurisdictions in the prosecution of violations of international humanitarian law, thus reinforcing the rule of law in these new States.

49. The decisions on referral of cases were made by a specially appointed Referral Bench, followed by appeals against the referral decisions in some cases. As a result, 10 accused were transferred to Bosnia and Herzegovina, 2 to Croatia and 1 to Serbia. Requests for the referral of four accused were denied because of the level of responsibility of the accused and the gravity of the crimes charged. Possibilities for referrals were maximized. Accordingly, no cases eligible for referral, according to the seniority criteria set by the Security Council, remain before the Tribunal.

50. With respect to 13 persons transferred to national jurisdictions, proceedings against 12 have been concluded. The last individual, Vladimir Kovačević, was determined not fit to stand trial by the Basic Court in Kraljevo, Serbia.

V. Outreach

51. Public interest in the work of the Tribunal remains high, particularly in countries of the former Yugoslavia. The Tribunal's Outreach Programme continued to work with numerous target groups in the former Yugoslavia, delivering factual and accessible information about the Tribunal's work and stimulating debate on the Tribunal's legacy. Outreach representatives in field offices in Belgrade, Pristina, Sarajevo and Zagreb continued to solidify their relationship with local audiences. They organized approximately 50 outreach events, which provided information about and explained aspects of the Tribunal's work. Over 100 visitors from the former Yugoslavia and over 3,000 from the rest of the world visited the Tribunal itself.

52. In mid-November the Tribunal hosted three conferences in Bosnia and Herzegovina, Croatia and Serbia, focusing on the Tribunal's legacy. Such events encourage local communities to consider the Tribunal's legacy and thus ensure that

the Tribunal's work will continue to impact the former Yugoslavia even after mandate completion.

53. In October, the Outreach Programme brought to a close its highly successful youth education project, generously supported by the Government of Finland. Over a period of one year, outreach officers provided information on the Tribunal's work to more than 3,000 high school and university students across most countries in the former Yugoslavia.

54. The Outreach Programme continued to play a substantial role in promoting access to the judicial work of the Tribunal in countries of the former Yugoslavia. In October, at an event in Pristina, outreach officers launched an Albanian language version of the Manual on Developed Practices, a publication aimed at assisting domestic judiciaries in the former Yugoslavia by transferring best practices. The translation of the manual into Albanian was made possible by the generous support of the Government of Switzerland.

55. The Tribunal's website remained a key outreach and legacy tool. During the reporting period, more than 1.2 million pages were accessed from all regions of the world, with 20 per cent of visits originating from the former Yugoslavia. The Tribunal's Communications Service also assisted in creating the website of the Residual Mechanism. Initially available in English and French, the content of the website of the Residual Mechanism is being translated into Kinyarwanda and Bosnian/Croatian/Serbian.

56. The Tribunal has expanded its presence on social media platforms. It launched a Facebook page in May, creating an additional tool to publish news and create debate about the Tribunal's work. On average, 40 per cent of visits each month are from the former Yugoslavia. The Tribunal's Twitter account has continued to grow steadily, with an additional 100 followers every month, while its YouTube channel remains popular, with over 400,000 views per year.

57. During the reporting period, the Outreach Programme has been the most active since its establishment, but funding challenges continue. By the end of this year, the Outreach Programme will no longer receive the long-established support from the European Instrument for Democracy and Human Rights of the European Union. A pledge has been received from another European Union source to keep the programme running for one additional year. These funding challenges illustrate the difficulty of maintaining stable programming when funds for all outreach activities must be raised independently, separate from general funding for the Tribunal. The Tribunal's Outreach Programme will continue its fundraising efforts, underscoring the pertinence of General Assembly resolution 65/253, in which the Assembly encouraged the Secretary-General to continue to explore measures to raise voluntary funds for outreach activities. The Tribunal calls upon States and other donors to continue and increase support for outreach activities. Especially given the impending completion of the Tribunal's mandate, the forthcoming period will be crucial to assuring the Tribunal's legacy in the former Yugoslavia.

VI. Victims and witnesses

58. The Tribunal has facilitated travel and support for over 7,650 witnesses and accompanying persons from all over the world who have been called to appear

before it. Most witnesses come from diverse and remote locations within the former Yugoslavia. Without the courage of these witnesses in stepping forward and giving evidence, there would be no trials and impunity would reign. Yet many witnesses have experienced a range of difficulties resulting from their decision to testify before the Tribunal, and the Tribunal's resources are simply incapable of meeting all of their needs. Witnesses have already endured great suffering and loss as a result of the conflicts in the former Yugoslavia, and now, more than 20 years since the outbreak of the war, they have further needs. As witnesses age, they require more assistance and support owing to medical and health complications. Additionally, there are witnesses who have come to testify more than once over the years. These witnesses have reported that they find the experience of testifying multiple times both emotionally and physically challenging.

59. As the Tribunal works towards the completion of its activities, it continues to face challenges in relation to the relocation of witnesses. In addition, with the increasing number of war crime prosecutions in the region of the former Yugoslavia, national prosecutorial authorities frequently require the assistance of the Tribunal to contact protected Tribunal witnesses whose evidence is relevant for national prosecutions. In accordance with rule 75 of the Tribunal's Rules of Procedure and Evidence, the Victims and Witnesses Section is required to consult protected witnesses prior to the rescission, variation or augmentation of protective measures. The increasing number of requests for assistance and resulting consultations puts a strain on the Tribunal's resources, especially in the context of staff downsizing.

60. Victims of the conflict in the former Yugoslavia have a right to compensation under international law for the crimes committed against them. In previous reports, the Security Council has been called upon to establish a trust fund for victims of crimes falling within the Tribunal's jurisdiction, considering the legal bases for such compensation, including the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and General Assembly resolution 40/34 of 29 November 1985. The Tribunal has received an abundance of positive responses to this initiative from the victims of the atrocities that were committed during the destructive dissolution of the former Yugoslavia during the 1990s.

61. The Tribunal has taken initiatives to establish a system that provides assistance and support to victims. To this end, it is partnering with the International Organization for Migration, which is currently conducting an assessment study aimed at providing the Tribunal with guidance on suitable assistance measures and funding options to support those measures. The Government of Finland has generously provided the necessary funding to carry out the assessment, which is being conducted in Bosnia and Herzegovina, Croatia, Serbia, Montenegro, Kosovo and the former Yugoslav Republic of Macedonia. The Tribunal calls upon the Security Council to take whatever steps are necessary to lend its support to these initiatives, stressing that they will not impose any obligations upon States to provide funding and will rely instead on voluntary contributions. The Tribunal cannot, through the rendering of its judgements alone, bring peace and reconciliation to the region. Other remedies must complement the criminal trials if lasting peace is to be achieved, and one such remedy should be adequate reparations to the victims for their suffering.

VII. Cooperation of States

62. There are no outstanding fugitives. This milestone is the result of years of effort by States and the Prosecutor to locate and transfer fugitives to the jurisdiction of the Tribunal.

VIII. Registry activities

A. Support for core judicial activities

63. The Registry's first priority during the reporting cycle was providing full support to the Tribunal's ongoing judicial activities, thereby assisting the Tribunal in reaching its completion targets. The Court Management and Support Services Section, the Conference and Language Services Section, the Office for Legal Aid and Detention Matters, the United Nations Detention Unit and the Victims and Witnesses Section all streamlined operations to ensure the most efficient and effective support to the judges and the Prosecutor.

B. Activities related to the International Residual Mechanism for Criminal Tribunals

64. The Residual Mechanism commenced operations on 1 July 2012. In accordance with Security Council resolution 1966 (2010), operations first began at the Arusha branch of the Residual Mechanism, while operations at the branch in The Hague will begin on 1 July 2013. The inauguration of the Arusha branch was welcomed by representatives of both Tribunals, as well as by representatives of the broader international community. These representatives underscored the importance of ensuring that the legacy of the Tribunals is safeguarded and further developed by the Residual Mechanism.

65. Set out below is a summary of the work that has been or is being undertaken to prepare for completion of the Tribunal's work and for transfer of the Tribunal's remaining responsibilities to the Residual Mechanism.

1. Transfer of functions from the Tribunal to the Residual Mechanism

66. The Tribunal has to date transferred one Tribunal function to the Residual Mechanism, namely, records and archives management. On 30 June 2012, the Tribunal abolished its Archives and Records Management Unit. The Archives and Records Section of the Residual Mechanism has assumed responsibility for the Tribunal's central records centre, which contains approximately 600 linear metres of non-judicial records from all organs of the Tribunal. The Archives and Records Section is reviewing and streamlining the existing policies, procedures and systems for the management and operation of what is now the Archives and Records Section records centre in The Hague.

67. The Tribunal continues to prepare for the transfer of other functions to the Residual Mechanism on 1 July 2013 in accordance with Security Council resolution 1966 (2010). Functions that will be transferred include jurisdiction over certain appeal, review, contempt of court and false testimony proceedings; the protection of

victims and witnesses in certain cases; and the enforcement of sentences and assistance to national jurisdictions.

2. Regulatory framework of the Residual Mechanism

68. Both Tribunals have assisted the Residual Mechanism with the drafting of its regulatory framework. The Residual Mechanism has adopted practice directions and internal guidelines on a number of functions, including the practice direction on the procedure for designation of the State in which a convicted person is to serve his or her sentence of imprisonment and the practice direction on the procedure for the determination of application for pardon, commutation of sentence and early release of persons convicted by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia or the Mechanism. A legal framework for the protection of victims and witnesses has been established. A practice direction on the assignment of counsel and a code of conduct for counsel appearing before the Residual Mechanism have been finalized. Procedures for filing submissions before the Residual Mechanism have been drafted.

69. These practice directions and guidelines will apply to both branches of the Residual Mechanism. Although the branch in The Hague only commences work on 1 July 2013, the Tribunal's extensive involvement in the drafting process has ensured that the Tribunal's legal framework and practices are adequately reflected in relevant documents of the Residual Mechanism. This will in almost all cases obviate the need for separate regulatory frameworks at both branches, thereby economizing resources.

3. Premises and host State agreement

70. Security Council resolution 1966 (2010) identifies the seats of the branches of the Residual Mechanism as The Hague and Arusha. In order to realize cost savings and maximize efficiency, the branch of the Residual Mechanism in The Hague will be co-located with the Tribunal during the period of their coexistence. The Tribunal is assisting the Office of Legal Affairs in negotiating an appropriate headquarters agreement with the host State and will continue assisting the Residual Mechanism in those negotiations. Until such an agreement is concluded, the Tribunal's host State agreement provisionally applies to the branch in The Hague.

4. Information security and access regime for Tribunal and Residual Mechanism records

71. The Archives and Record Section of the Residual Mechanism is now leading the development and implementation of record-keeping policies for the Tribunal. On 20 July 2012, the Secretary-General issued a bulletin entitled "International Criminal Tribunals: information sensitivity, classification, handling and access" (ST/SGB/2012/3). In recognition of the unique nature of the work of the Tribunals and the Residual Mechanism, the bulletin will guide information and document management in the three institutions. Its promulgation marks the successful collaboration between archives and records management experts and legal experts from the two Tribunals, the Archives and Records Management Section in New York and the Office of Legal Affairs.

5. Development of retention and record-keeping policies

72. The Archives and Records Section of the Residual Mechanism has assumed responsibility for producing a comprehensive records retention policy for the substantive records of all three organs of the Tribunal. This work was delayed by the closure of the Archives and Records Management Unit of the Tribunal and the transfer of activities to the Archives and Records Section of the Residual Mechanism, but it has now resumed and will be completed by 30 June 2013. In August 2012, the Tribunal received confirmation that the records retention schedules that it had submitted to the Archives and Records Management Section at Headquarters for approval between February 2011 and March 2012 were approved for implementation. The Archives and Records Section of the Residual Mechanism will now lead the work necessary to implement the schedules.

73. The Archives and Records Section of the Residual Mechanism has also taken over the work to prepare records disposition plans for Tribunal offices. Records disposition plans have been completed for most Registry offices, and the Prosecution continues to work on such plans.

74. The Chief Archivist of the Archives and Records Section of the Residual Mechanism is working in collaboration with the Tribunal's Information Technology Services Section to develop an e-mail policy for the Tribunal.

6. Preparation of digital records for migration to the Residual Mechanism

75. The Tribunal continues to work on projects to prepare its digital records for transfer to the Residual Mechanism. These include projects to audit key collections of digital records and to improve the quality of the indexes to the collections, ensuring that they will be accessible in the future.

76. The records disposition plans referred to above include actions to be taken by particular Tribunal offices with respect to digital records before their closure.

7. Preparation of physical records for transfer to the Residual Mechanism

77. The Tribunal continues to work on projects to prepare its hard-copy records for transfer to the Residual Mechanism. These include projects to audit key collections of physical records and to improve the quality of the indexes to the collections, thus ensuring that they will be accessible and usable in the future.

78. The records disposition plans referred to above include actions to be taken by particular offices with respect to physical records before their closure. Records will be prepared and transferred to the Archives and Records Section of the Residual Mechanism in accordance with standards issued by the Section.

79. The Chief Archivist of the Archives and Records Section of the Residual Mechanism has assumed leadership of the Working Group to Develop an Emergency Response and Disaster Recovery Plan for the Tribunal's physical records repositories.

8. Administrative support provided to the Residual Mechanism

80. The budget of the Residual Mechanism stipulates that administrative support services will be provided by the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. Accordingly, the Tribunal has

been working in close cooperation with the International Criminal Tribunal for Rwanda to ensure that both branches of the Residual Mechanism are provided with effective administrative services throughout the biennium 2012-2013.

81. The Tribunal's Human Resources Section is administering all Inspira recruitments for Professional posts. The Information Technology Services Section has devoted significant time and effort to developing proposals for information technology systems and infrastructure for the Residual Mechanism. The Finance Section has worked to identify practices and methods for accounting and finance arrangements for the Residual Mechanism. The General Services Section has identified appropriate office space for staff and is working to ensure that this space is ready for use by 1 July 2013.

82. The Tribunal will provide the branch in The Hague with administrative support services at no cost. It will also provide the branch with the required judicial support services at no cost, including staffing costs related to court management support, language services, detention services and witness protection services.

83. The use of the existing staff and resources of the Tribunals has allowed the Residual Mechanism to operate efficiently and has resulted in reduced staff funding requirements and reduced general operating expenses.

C. Budget for 2014-2015

84. The Tribunals and the Residual Mechanism will work together to prepare the budget for the biennium 2014-2015 to adequately reflect the distribution of functions between the Tribunals and the Residual Mechanism and to maximize economies of scale.

D. Downsizing

85. The downsizing process continues to be implemented. During 2012 and 2013, the Tribunal expects to abolish 120 posts in line with the trial and appeal schedule. Using the comparative review process, staff members are placed against specific posts selected for downsizing. Staff members' contract validity dates are synchronized to the dates set for the abolition of their posts. The comparative review process for post reductions in 2012 and 2013 was completed in the fourth quarter of 2011. By conducting this exercise as early as possible, it has been possible to provide staff members with the maximum contractual security that prudent financial planning will permit. The Office of Internal Oversight Services has indicated that it considers the Tribunal's downsizing process to be best practice in leadership of a change process.

E. Enforcement of sentences

86. The Tribunal continues to pursue its efforts to secure additional agreements for the enforcement of Tribunal sentences. The successful completion of its mandate requires a sufficient number of agreements to transfer all persons convicted on appeal. Continued support from the international community is vital.

F. Information centres

87. Following the October 2009 mission of the Head of Chambers to the former Yugoslavia, Judge Patrick Robinson, the President of the Tribunal at the time, established the Informal Consultative Working Group on the establishment of information centres in the region of the former Yugoslavia, consisting of representatives of relevant Governments, to enable national authorities to better determine whether they consider it desirable to establish information centres in their territories and, if so, to develop a vision for such centres. Subsequent meetings have involved the United Nations Development Programme (UNDP) and the United Nations Interregional Crime and Justice Research Institute (UNICRI). The Tribunal and partners providing technical and financial support to the project have agreed to hold bilateral meetings with individual States from the former Yugoslavia that are interested in establishing information centres.

88. Bosnia and Herzegovina and Croatia have already agreed to the establishment of information centres, and discussions with other relevant States are ongoing. The Government of Croatia and the mayor of Sarajevo have also pledged space that could house information centres. To advance these plans, meetings were held in Zagreb during the week of 5 November 2012 with partner entities, including UNICRI, UNDP and the Government of Switzerland. Meetings were also held in Sarajevo that week with these same partners, as well as with OSCE. Participants in the meetings identified the current lack of financial support for the project as a barrier to expeditious creation of the information centres. The Tribunal asks the international community to support this project by providing the necessary additional funds.

IX. Legacy and capacity-building

89. The Tribunal is planning a modest series of events both at The Hague and in the former Yugoslavia to mark the twentieth anniversary of its existence. These events will highlight the Tribunal's contribution to the development of international criminal law and its role in promoting justice and accountability in the former Yugoslavia.

X. Conclusion

90. This report demonstrates the Tribunal's steadfast commitment to the expeditious conduct of its proceedings while ensuring full compliance with due process standards. While judgements in certain cases are now expected later than previously predicted, the Tribunal is doing its utmost to avoid such delays.

91. Delays in the delivery of certain judgements should not distract from the Tribunal's unprecedented success in developing a comprehensive corpus of precedents in international criminal law and in arresting all living individuals indicted by the Tribunal, thus establishing clearly and unequivocally that genocide, crimes against humanity and violations of the laws or customs of war are crimes that the international community will not tolerate. In this spirit, the Tribunal encourages the Security Council to continue supporting judicial institutions in the former Yugoslavia as they build on the work of the Tribunal and the Security Council.

Annex II

[Original: English and French]

Report of Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, provided to the Security Council under paragraph 6 of Security Council resolution 1534 (2004)

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I. Overview

1. The Prosecutor submits this eighteenth completion strategy report pursuant to Security Council resolution 1534 (2004), covering developments between 24 May 2012 and 15 November 2012. In this reporting period, an important milestone was reached with the commencement of the last trial (*Hadžić*) at the International Tribunal for the Former Yugoslavia. Although signalling the final phase of the Tribunal's caseload, the start of the *Hadžić* trial is also a pressing reminder that authorities in the former Yugoslavia must carry on the Tribunal's important work of prosecuting crimes committed during the conflicts. A radical improvement in the processing of national war crimes cases is needed to ensure that justice and accountability in the former Yugoslavia are not derailed with the closure of the Tribunal.

2. The Office of the Prosecutor focused in this reporting period on ensuring expeditious progress in the four trials that remain in the evidence presentation phase and preparing for the intense appellate caseload that is imminent. At the end of the reporting period, two cases are in the prosecution evidence presentation phase (*Hadžić* and *Mladić*); one case is in the defence evidence presentation phase (*Karadžić*); in one case the Office of the Prosecutor and defence evidence presentation has almost concluded and closing arguments are expected in the coming weeks ((Jovica) *Stanišić* and *Simatović*); and five cases are awaiting judgement at the Trial Chamber level (*Prlić et al.*, *Šešelj*, *Haradinaj et al.* (Mićo) *Stanišić* and *Župljanin* and *Tolimir*). In addition, six cases are on appeal (*Šainović et al.*, *Lukić* and *Lukić*, *Popović et al.*, *Đorđević*, *Gotovina and Markač* and *Perišić*); contempt proceedings are ongoing in one case (*Rašić*); and two contempt appeals are pending (*Šešelj*).

3. Cooperation from States in the former Yugoslavia remains critical to the successful completion of the work of the Office of the Prosecutor and was once again closely monitored during the reporting period. The Office of the Prosecutor is generally satisfied with the cooperation provided by Serbia, Croatia and Bosnia and Herzegovina. The Office was pleased to note preliminary indications that the new Government in Serbia will provide the same level of positive cooperation as the previous Government.

4. The main area of concern regarding States in the former Yugoslavia is now the capacity of national institutions to conduct effective war crimes prosecutions. The Office of the Prosecutor remains particularly concerned about the effective implementation of the National War Crimes Strategy of Bosnia and Herzegovina, which is besieged with problems. Linked to this is the need for greater cooperation on war crimes matters between States in the region. The Office of the Prosecutor is concerned that the authorities in Bosnia and Herzegovina have failed to adopt the proposed cooperation protocol between the Prosecutor's Offices of Bosnia and Herzegovina and Serbia on the exchange of evidence and information in war crimes cases. During the Prosecutor's meetings in Sarajevo in October 2012, political and judicial authorities did not show a genuine commitment to endorsing the protocol.

5. If reconciliation and the rule of law are to become achievable objectives in the coming decade, the capacity of national institutions in the former Yugoslavia to investigate and prosecute war crimes cases will have to be dramatically strengthened. The Office of the Prosecutor is, within its resource constraints,

increasing its focus on supporting national capacity for war crimes prosecutions. The Office has developed a package of measures for transferring expertise from the Tribunal to the concerned States, including its European Union-sponsored "liaison prosecutors" programme and the development of a practitioner-oriented manual on the prosecution of sexual violence crimes. Another obvious mechanism for transferring expertise is through the involvement of the Office of the Prosecutor in training programmes. Following increasing concern about duplication in regional training programmes and the overall absence of a coordinated strategy, in this reporting period, the Office of the Prosecutor (with the support of its international partners) commissioned its own assessment of the training needs of prosecutors in Bosnia and Herzegovina. The results of the assessment will shape the Office's future contributions to regional training programmes and capacity-building more generally.

II. Completion of trials and appeals

A. Flexible management of the resources of the Office of the Prosecutor and problems of staff attrition

6. As the Office of the Prosecutor progressively abolishes posts and reduces the size of its staff, the flexible management of its remaining resources is becoming increasingly important. The Office is devising new organizational structures that will generate additional flexibility, such as greater integration of the Trial and Appeals Divisions. Appeals Division staff members are already assisting with multiple functions across the Office, including providing support for the immediate Office of the Prosecutor.

7. The Office still faces serious challenges resulting from staff attrition. Its trial teams continue to report problems associated with key staff members leaving the Office in the midst of a trial. Shortages of personnel to assist with electronic disclosure searches and to perform trial and language support functions also affect the Office's ability to respond quickly to demands from defence teams and Chambers. In the present reporting period, the Office has complied with onerous disclosure orders in several ongoing trials, in addition to its regular and continuing disclosure work in all cases. This development has significantly strained existing resources and temporary staff members have been hired to alleviate the situation and to ensure that the Office complies with court-imposed deadlines.

8. As the Tribunal progresses towards its end date, there is an escalating risk that the Office will not be able to retain its key staff until completion of its work. Retaining staff is also critical for the Tribunal casework that will carry over into the International Residual Mechanism for Criminal Tribunals. As the Security Council has recognized, for obvious reasons, staff members with experience at the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda are essential for the successful operation of the Residual Mechanism. Staff attrition in the Office of the Prosecutor continues to place unreasonable strain on the remaining staff members who are left to cover multiple additional functions. The Office relies on its staff members to shoulder the operational uncertainties of constantly shifting trial and appeal schedules and to cope with an ever-expanding workload. At the same time no solutions have been found to reward them or to secure their continued loyalty to the Tribunal. Some

have now spent the bulk of their careers serving the Tribunal and some are approaching as many as 20 years of service with the Office of the Prosecutor. The Office recognizes the outstanding contributions of its staff members, particularly those who have shown long-term commitment to its mission, even at the considerable personal cost of forgoing more stable and enduring career paths in other systems.

B. Update on the progress of trials

1. *Prlić* et al.

9. The trial in this multi-accused case was completed in March 2011. Judgement is pending and is not expected before March 2013. Five of the six accused persons have been on provisional release since November 2011. All of the Office's appeals against the provisional release of the accused have been unsuccessful.

2. *Šešelj*

10. This trial was completed on 20 March 2012 and there has been little activity in the case since then. The Trial Chamber is currently deliberating and the parties await the Trial Chamber's judgement, which is scheduled for July 2013.

3. (Mićo) *Stanišić* and *Župljanin*

11. The trial against Stanišić and Župljanin was completed in June 2012. The prosecution and the defence filed their final trial briefs on 14 May 2012 and closing arguments were heard between 29 May and 1 June 2012. The prosecution requested a life sentence for both Stanišić, the former Minister of the Interior of the Republika Srpska, and Župljanin, his regional police chief for Banja Luka. The parties now await judgement, which is not expected before March 2013.

12. On 6 June 2012, the Trial Chamber granted Stanišić provisional release for three months, which was extended upon his request on 27 August 2012. Župljanin did not seek provisional release.

4. (Jovica) *Stanišić* and *Simatović*

13. The final witness in this trial concluded his testimony on 31 May 2012. Both accused persons subsequently sought the admission of additional documentary evidence. After the Trial Chamber issued its decision on these requests, the Prosecution was permitted to adduce rebuttal evidence and the defence will have an opportunity to seek the admission of rejoinder evidence. Following the Chamber's decision on all outstanding evidentiary motions, the parties will have one week to file their final trial briefs. These are likely to be due before the end of 2012. Thereafter closing arguments will be heard, concluding the prosecution and defence cases.

5. *Tolimir*

14. This trial is now complete and the parties await judgement. Final trial briefs were filed on 11 June 2012 and closing arguments were made from 21 to 23 August 2012. The judgement will be delivered on 12 December 2012.

6. *Haradinaj et al.* (retrial)

15. The *Haradinaj et al.* retrial is pending judgement. The parties' final trial briefs were filed on 11 June 2012 and closing arguments were made from 25 to 27 June 2012. The judgement will be delivered on 29 November 2012.

7. *Karadžić*

16. The Prosecution called its last witness in the *Karadžić* trial on 4 May 2012 and, after the Trial Chamber disposed of pending evidentiary matters, the prosecution case was declared closed as of 25 May 2012. During the prosecution case, the prosecution used just under its allotted 300 hours of time for examination-in-chief. The presentation of the prosecution's case within this time frame was significantly facilitated by the use of written evidence. Karadžić used around 750 hours cross-examining the prosecution's witnesses.

17. From 11 to 13 June 2012, the Trial Chamber heard submissions from the parties concerning Karadžić's oral application for a judgement of acquittal on all counts in the indictment pursuant to rule 98 bis. The Trial Chamber issued its oral rule 98 bis judgement on 28 June 2012, upholding all counts but one. The Trial Chamber acquitted Karadžić of genocide in municipalities throughout Bosnia and Herzegovina in 1992 (count 1 of the indictment). The prosecution filed a notice of appeal against the Trial Chamber's dismissal of count 1 on 11 July 2012 and an appeal brief on 24 September 2012. Karadžić filed his response on 5 November 2012 and the Prosecution is due to file its reply on 20 November 2012. Karadžić appealed the Trial Chamber's decision upholding count 11 concerning hostage-taking, charging him with taking United Nations personnel hostage in May and June 2012. The briefing phase in his appeal was completed on 10 August 2012 and the parties await the Appeals Chamber's decision.

18. A pre-defence conference was held on 15 October 2012 and the defence case commenced the following day. The Trial Chamber refused Karadžić's request for 600 hours to present his defence case, allotting him 300 hours instead. Karadžić filed an appeal against the Trial Chamber's decision, which is pending. Karadžić intends to make considerable use of rule 92 ter, pursuant to which he will conduct a limited examination of witnesses and rely largely on their written statements. The prosecution intends to conduct focused cross-examinations of defence witnesses to minimize the length of the defence case. By the end of October, Karadžić had used seven hours of his allotted time and the prosecution had used around 17 hours for cross-examination.

19. Karadžić's extensive requests for disclosure of material from the evidence collection of the Office of the Prosecutor prior to the commencement of his defence case has put additional pressure on the Office's document search and review resources, which are already under considerable strain. Through discussion with Karadžić and prioritization of requests, the Office continues to meet its disclosure obligations.

8. *Mladić*

20. On 9 July 2012, the Office of the Prosecutor commenced the presentation of its case-in-chief. In the previous reporting period, a technical problem in the Office's document management system had affected disclosure, such that the Trial Chamber

adjourned the commencement of the evidence presentation. The Office expended significant resources on remedial measures to correct this technical problem in the shortest possible time. Since the trial recommenced, the prosecution has made good progress in the presentation of its case. So far, the prosecution has called 48 witnesses to testify. The prosecution has endeavoured to present its case efficiently and anticipates that, absent any unforeseen difficulty, it will conclude the presentation of its case in July 2013. The Office recognizes the efforts of the *Mladić* defence to make efficient use of hearing time.

21. To expedite the proceedings, the prosecution relies upon adjudicated facts from prior judgements of the Tribunal of which the *Mladić* Trial Chamber has taken judicial notice. The adjudicated facts do not directly concern Mladić's conduct, but they are relevant to an adjudication of the indictment against him. In most cases, reliance on adjudicated facts has reduced the length of written witness statements tendered by the prosecution and may alleviate the need to call some witnesses altogether. On 4 October 2012, the prosecution informed the Chamber that it might not call the evidence of 29 witnesses in reliance on such facts. A final determination can only be made after the Appeals Chamber determines an appeal filed by Mladić in early July 2012 against the judicial notice taken by the Trial Chamber.

22. The Chamber holds regular hearings to discuss the scheduling of witnesses, enabling the prosecution to schedule witnesses with more certainty. This assists in reducing the costs associated with witness accommodation in The Hague and minimizing inconvenience to the witness. The meetings also result in more efficient use of court time.

9. *Hadžić*

23. The last trial to commence at the Tribunal began on schedule on 16 October 2012 with the prosecution's opening statement. Goran Hadžić, the former President of the self-proclaimed Serbian Autonomous District of Slavonia, Baranja and Western Srem and subsequently President of the Republic of Serbian Krajina, faces charges of ethnic cleansing, persecutions and other crimes against humanity against the non-Serb populations in Eastern Slavonia and the Knin Krajina regions of Croatia from late 1991 through 1993.

24. The trial is proceeding expeditiously. The prosecution's extensive pre-trial preparation focused on the early disclosure of information and documents to the defence (including facilitating access to selected confidential and otherwise unavailable materials from three closed and two ongoing related Tribunal cases). By the end of the year, it is expected that the prosecution will have presented approximately 30 witnesses. The evidence of many of these witnesses will be adduced under rule 92 bis, ter and quater, pursuant to which the prosecution will rely on a witnesses' written statement or prior testimony in a related case. This procedure saves considerable courtroom time, while ensuring the fair trial rights of the accused.

C. Update on the progress of appeals

25. The parties await the Appeals Chamber's judgement in *Milan Lukić and Sredoje Lukić*, which is scheduled to be delivered on 4 December 2012. The trial judgement was issued on 20 July 2009.

26. After the appeals hearing in *Gotovina and Markac* was held on 14 May 2012, the Appeals Chamber requested that the parties submit supplementary briefs on several issues in the case. The appeals judgement will be issued on 16 November 2012. The trial judgement was issued on 15 April 2011.

27. Two of the three multi-accused cases, *Šainović et al.* (trial judgement issued 26 February 2009) and *Popović et al.* (trial judgement issued 10 June 2010) have been fully briefed and the parties are waiting for the Appeals Chamber to schedule appeal hearings. The briefing in *Šainović et al.* concluded on 1 September 2010 and in *Popović et al.* on 2 May 2011. The appeal hearing in *Šainović et al.* is anticipated in March 2013 and in *Popović et al.* in June 2013. The proceedings against Milan Gvero, one of the accused in *Popović et al.*, remain suspended. The parties await the Appeals Chamber's decision on whether these proceedings should be resumed.

28. The appeal briefing in *Đorđević* has been completed and an appeal hearing is expected in April 2013. The trial judgement was issued on 23 February 2011.

29. An appeal hearing in *Perišić* was held on 30 October 2012 and the judgement is expected in March 2013. The trial judgement was issued on 6 September 2011.

30. By the end of December 2012 the Appeals Division will carry an inventory of prosecution appeals affecting 12 accused, in addition to 12 appeals by convicted persons against their convictions and/or sentence. The Appeals Division may add to this caseload should appeals be filed concerning the trial judgements in *Tolimir* and *Haradinaj et al.*, which are expected before the end of the year.

31. In addition to its appeals caseload, the Appeals Division actively assists trial teams with briefing major legal issues, preparing pre-trial and final trial briefs, opening and closing submissions, pre-trial motions and motion responses and other trial preparation matters, including time-sensitive issues such as urgent motion responses and disclosure. As the Trial Division downsizes at the end of trials, the Appeals Division continues to manage several essential trial-related functions, including digesting and communicating jurisdictional and procedural decisions of interest to the trial teams, overseeing the selection and assignment of interns and managing the meetings of the legal advisers.

D. Contempt cases

1. *Rašić*

32. The appeal briefing in the contempt case against Jelena Rašić concluded in April 2012 and the parties await the Appeals Chamber's judgement.

2. *Šešelj*

33. Šešelj has not removed confidential information about Tribunal witnesses from the public domain despite the Chamber's judgements against him and consequent orders to do so.

34. In the second contempt case against Šešelj concerning breaches of protective measures, the amicus curiae prosecutor's appeal is pending. In August 2012, the Appeals Chamber found that Šešelj had waived his right to appeal after he failed to comply with the Chamber's order to refile his notice of appeal and appeal brief in the prescribed form and length.

35. In the third contempt case against Šešelj concerning his failure to remove confidential information from his website (which was the subject of the second contempt case), the Trial Chamber sentenced Šešelj to a single term of imprisonment of two years on 28 June 2012. Šešelj had indicated that he would testify in his own defence, but when hearings commenced in June 2012 he chose not to present any evidence. Šešelj appealed the judgement and, in September 2012, requested the disqualification of three appeals judges.

E. Access orders

36. The Office of the Prosecutor continues to devote significant resources to ensuring compliance with trial and appeal decisions granting accused persons access to confidential material in related Tribunal cases. Since the last report, 22 new access decisions have been issued, including one in September that granted the accused Ratko Mladić access to 28 completed cases to facilitate his defence preparations. So far, notices of compliance with this decision have been filed in 20 of the 28 cases. The Office is also nearing completion of review work associated with decisions granting Goran Hadžić access to five related cases. Given the volume and time-consuming nature of the compliance work, access decisions have a significant impact on the Office's resources.

37. The number of access decisions requiring periodic notices of compliance in ongoing cases has risen to 39. These decisions have required and will continue to require a substantial amount of review work, which has been absorbed by existing resources.

III. State cooperation with the Office of the Prosecutor

38. To successfully complete its mandate, the Office of the Prosecutor continues to rely on the full cooperation of States, as set out in article 29 of the statute of the Tribunal.

A. Cooperation between the States of the former Yugoslavia and the Office of the Prosecutor

39. During the reporting period, the Office of the Prosecutor sought cooperation from States of the former Yugoslavia, in particular Serbia, Croatia and Bosnia and Herzegovina. To promote and assess cooperation, the Office maintained a direct dialogue with Government and other authorities from each of these three countries, including officials in national prosecution offices. The Prosecutor met with officials in Belgrade on 8 and 9 October 2012 (including with members of the new Government appointed in July 2012) and in Sarajevo from 15 to 17 October 2012 to discuss cooperation and other issues of mutual relevance.

1. Cooperation between Serbia and the Office of the Prosecutor

40. With the last trials of the Tribunal in progress, Serbia's cooperation with the Office of the Prosecutor remains of paramount importance in bringing the Office's work to a successful conclusion. During meetings in Belgrade, representatives of the

new Government assured the Prosecutor that they would continue to cooperate and would further develop Serbia's level of cooperation with the Office.

(a) Assistance with trials and appeals

41. The Office's access to documents and archives in Serbia remains important for ongoing trial and appeals proceedings. Overall, Serbia has shown continued diligence in processing the Office's requests for assistance. In the present reporting period, the Office sent 25 requests for assistance to Serbia. The new Government has responded adequately to the requests. While a number of requests are still pending, none are presently overdue.

42. Continuity in cooperation is also visible in the work of the National Council for Cooperation, the central authority in charge of facilitating answers to requests from the Office for assistance. There were initial delays in handling requests following the parliamentary elections in June and the appointment of a new Government in July. However, the Council quickly resumed its important role in coordinating the work of the government bodies that handle the Office's requests for assistance.

43. Similarly, during this reporting period, Serbian authorities continued to adequately assist with the Office's access to witnesses, including facilitating their appearance before the Tribunal. Summonses were served on time, court orders were executed and witness interviews were arranged. The relevant legal and law enforcement bodies, including the Office of the War Crimes Prosecutor, provided valuable assistance to the Office.

44. With a tight trial and appeals schedule, the Office will require continued cooperation from Serbia in the months to come. The Office expects and encourages the Serbian authorities to maintain their prompt and efficient approach to requests for assistance, which is crucial for the successful discharge of justice at the Tribunal.

(b) Investigation into fugitive networks

45. Following the arrests of the last fugitives from the Tribunal, Mladić and Hadžić, Serbia undertook to provide the Office of the Prosecutor with comprehensive information explaining how a number of fugitives had evaded justice for so long prior to their capture. Serbia also expressly undertook to investigate and prosecute individuals who had assisted in harbouring fugitives while at large. In his previous report (S/2012/354, annex II), the Prosecutor expressed concern about the limited progress achieved and encouraged Serbia to intensify its investigative efforts.

46. During the Prosecutor's September visit to Belgrade, the Serbian Prosecutor for War Crimes presented additional and more detailed information on the progress concerning investigation of the fugitive networks. The pace of investigations has finally increased, producing results in some areas. The Office of the Prosecutor encourages Serbia to proceed with these investigations and encourages political authorities to fully support the Office of the War Crimes Prosecutor's efforts in finalizing this work.

(c) *Kovačević* rule 11 bis case

47. In the previous reporting period the Serbian authorities informed the Office of the Prosecutor that a decision had been rendered finding Kovačević unfit to stand trial. Based on the expert reports upon which the decision was based, it is unlikely that there will be any further developments in this case.

2. Cooperation between Croatia and the Office of the Prosecutor

48. The Office of the Prosecutor continues to rely on Croatia's cooperation to efficiently complete trials and appeals. In the present reporting period, the Office sent 10 requests for assistance to Croatia. While a number of requests are still pending, the Croatian authorities have given timely and adequate responses to all other requests made. It has also provided access to witnesses and evidence as required. The Office will continue to rely on Croatia's cooperation in upcoming trials and appeals.

3. Cooperation between Bosnia and Herzegovina and the Office of the Prosecutor

(a) Assistance with trials and appeals

49. During the reporting period, the Office of the Prosecutor sent 16 requests for assistance to Bosnia and Herzegovina relating to ongoing trials and appeals. A number of requests are outstanding. The authorities of Bosnia and Herzegovina, at both the State and entity levels, responded promptly and adequately to most of the Office's requests for documents and access to Government archives. The authorities also provided valuable assistance with witness protection matters and facilitated the appearance of witnesses before the Tribunal. As trials and appeals progress, the Office will continue to rely on similar assistance from Bosnia and Herzegovina in the future.

(b) Follow-up on investigative materials transferred by the Office of the Prosecutor to Bosnia and Herzegovina

50. Between June 2005 and December 2009, the Office of the Prosecutor transferred 13 files involving 38 suspects to the authorities of Bosnia and Herzegovina (category II cases). In his previous report, the Prosecutor expressed concern about the slow pace of work in finalizing investigations based on the materials transferred by the Office. In recent months some progress has been achieved in processing these cases. In addition to the four completed cases, the Prosecutor's Office of Bosnia and Herzegovina has issued indictments in three cases. At present, six cases remain in the investigative phase.

51. During meetings with the Prosecutor in Sarajevo in September 2012, the Special Department for War Crimes once more confirmed its commitment to completing investigation of the category II cases by the end of the year. The Office of the Prosecutor encourages the Department to conclude the investigations and either bring cases to trial or close the file if there is an insufficient basis for proceeding. The same applies to finalizing investigations arising out of material transferred by the Office of the Prosecutor to Bosnia and Herzegovina concerning crimes documented in Office cases but which did not form part of the Tribunal's indictments.

4. Cooperation between other States and organizations and the Office of the Prosecutor

52. Support from States outside the former Yugoslavia, as well as from international organizations, remains integral to the successful completion of cases before the Tribunal. Assistance is needed to access documents, information and witnesses, as well as in matters related to witness protection, including the relocation of witnesses.

53. The Office of the Prosecutor acknowledges the support it received during the reporting period from States Members of the United Nations and from international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe, the Council of Europe and non-governmental organizations, including those active in the former Yugoslavia.

54. The international community also has an important role to play in providing incentives for States in the former Yugoslavia to cooperate with the Tribunal. For example, the European Union's policy of conditionality, linking progress towards membership to full cooperation with the Tribunal, has been effective in promoting concrete results, such as the arrests of the fugitives. Such tools will remain critical to securing future cooperation with the Tribunal for the remaining trials and appeals and to consolidate the rule of law in the former Yugoslavia.

IV. Transition from the Tribunal to national war crimes prosecutions

55. As the Tribunal moves further towards the completion of its mandate, the Office of the Prosecutor remains committed to promoting effective war crimes prosecutions in the former Yugoslavia. Within its existing resource constraints, the Office is implementing measures to build the capacity of its national counterparts to carry on the accountability process commenced by the Tribunal. The effective prosecution of war crimes committed during the conflicts in the former Yugoslavia is fundamental for the truth-seeking and reconciliation process. Accountability for these crimes depends as much on the success of national prosecutions as it does on the effective completion of the Tribunal's last cases.

56. While some progress has been made in war crimes prosecutions in countries of the former Yugoslavia, difficulties remain, particularly in Bosnia and Herzegovina.

A. Delay in processing cases in Bosnia and Herzegovina

57. Overall, progress with war crimes prosecutions in Bosnia and Herzegovina is limited and a large backlog of cases remains. The implementation of the National War Crimes Strategy faces serious obstacles and considerable delays. Based on their current pace of work, the relevant national institutions have no prospect of meeting the 2015 deadlines set under the strategy.

58. As reported in May 2012 (see S/2012/354, annex II, sect. IV.A), one of the reasons for this delay has been the slow transfer of cases between State and entity judicial institutions. In recent months, the number of cases transferred to the

cantonal courts has increased and objective criteria have been applied to govern the transfers. While the OTP welcomes these developments, parallel steps are needed to resolve the excessive backlog of cases now at the entity level, where courts lack sufficient capacity to absorb additional cases.

59. Comprehensive reform of war crimes processes in Bosnia and Herzegovina is urgently needed. The serious lack of qualified personnel and other resources to investigate and prosecute war crimes cases throughout the country, particularly at the entity level, must be immediately corrected. Continued efforts are also needed to strengthen the capacity of entity-level courts to overcome problems with witness protection, which are presently posing a serious threat to the administration of justice, including in the context of sexual violence crimes. Political leaders on all sides must genuinely commit to radical improvements in implementing the National War Crimes Strategy.

B. Cooperation between States of the former Yugoslavia on war crimes investigations and prosecutions

60. To combat impunity in the region, cooperation between Bosnia and Herzegovina, Croatia and Serbia in war crimes matters remains critical. The Office of the Prosecutor continues to promote improved regional cooperation in war crimes cases. While national prosecution offices in the region have shown a commitment to improving cooperation in criminal matters, including war crimes cases, the Office remains concerned about long-standing deficiencies and continuing obstacles to successful outcomes.

61. Judicial institutions in the former Yugoslavia still face serious challenges in coordinating their activities. Legal barriers to the extradition of suspects and the transfer of evidence continue to obstruct effective investigations. In addition, the problem of parallel investigations by prosecutors from different States has still not been resolved. Urgent action is needed by political and legal authorities in the region to promote and strengthen regional cooperation in war crimes cases.

62. In his previous report, the Prosecutor expressed concern about the proposed adoption of a law by the former Government of Croatia to annul all indictments issued by the Serbian authorities against citizens from Croatia. Despite criticisms expressed by the Office of the War Crimes Prosecutor of Serbia and the Croatian State prosecutor's office, the former Croatian Parliament adopted the law. Since December 2011, the law has been pending review before the Constitutional Court of Croatia. The Office of the Prosecutor reiterates its view that this legislative initiative will undermine regional cooperation in war crimes matters.

63. The Office of the Prosecutor remains particularly concerned about the failure of Bosnia and Herzegovina authorities to adopt the cooperation protocol between the Prosecutor's Offices of Bosnia and Herzegovina and Serbia on the exchange of evidence and information in war crimes cases. Negotiations for the protocol began in early 2011 and there is no credible explanation for failing to conclude it by now. If adequately implemented, the protocol could offer practical solutions to problems such as parallel investigations between the two countries and it would be an important step towards addressing the backlog of cases in Bosnia and Herzegovina. During the Prosecutor's meetings in Sarajevo in October 2012, political and judicial authorities failed to show real commitment to endorsing the protocol. The

authorities of Bosnia and Herzegovina must swiftly take the necessary steps to conclude the protocol.

C. Support of the Office of the Prosecutor for national war crimes prosecutions

64. The Office of the Prosecutor is intensifying efforts to help countries in the former Yugoslavia more successfully handle their many remaining war crimes cases. The Office's transition team under the Prosecutor's direction is leading the Office's work to facilitate domestic war crimes cases through information and expertise transfers.

1. Access to information in databases of the Office of the Prosecutor and in Tribunal case records

65. During this reporting period, the Office of the Prosecutor continued to provide information to assist national authorities in prosecuting crimes, although the volume of requests received by the Office decreased from the previous period. Between 18 May 2012 and 31 October 2012, the Office received 78 new incoming requests for assistance, as compared to 125 in the previous period. Of the 78 new requests, 66 were submitted by national judicial authorities in the former Yugoslavia. The majority (45) of these requests came from Bosnia and Herzegovina, with 12 from Croatia and nine from Serbia. Some of the requests were extensive and hundreds of pages of material were disclosed in response. Liaison prosecutors from the region who are working with the Office of the Prosecutor (see para. 69 below) played a key role in facilitating responses to these requests. There were also 12 requests from prosecution offices and law enforcement agencies in States outside the former Yugoslavia who are working on war crimes issues relating to the Balkans.

66. Also during this reporting period, the Office of the Prosecutor responded to a total of 65 requests for assistance, of which 54 came from authorities in the former Yugoslavia. The majority of responses were sent to Bosnia and Herzegovina (41); seven were sent to Croatia and six were sent to Serbia. Eleven responses were sent to authorities in States outside the former Yugoslavia.

67. Authorities in the former Yugoslavia continued to utilize procedures established under the Tribunal's Rules of Procedure and Evidence to access protected evidence from Tribunal cases. In this regard, the Office of the Prosecutor responded to nine rule 75 (H) applications from judicial authorities in the former Yugoslavia seeking variation of Tribunal-ordered protective measures to facilitate access to materials. The Office also filed two rule 75 (G) applications seeking variation of Tribunal-ordered protective measures so that it could provide relevant materials to authorities in the former Yugoslavia.

2. Transfers of expertise

68. To strengthen the capacity of national criminal justice systems in the former Yugoslavia for war crimes cases, the Office of the Prosecutor has established effective partnerships with prosecutors and courts in the region to facilitate the transfer of expertise.

69. The "liaison prosecutors" project — whereby three liaison prosecutors from the region (one from Bosnia and Herzegovina, one from Croatia and one from Serbia) work with the Office of the Prosecutor in The Hague — remains a central component of the Office's expertise transfer strategy. In August 2012, the third year of this joint project of the European Union and the Tribunal reached a successful conclusion. The Office is grateful to the European Commission for agreeing to fund the fourth year of the programme. The liaison prosecutors have access to designated databases of the Office and are instructed in the search methodologies used by the Office. They can also consult with in-house experts on relevant issues and serve as contact points for other regional prosecutors. At the same time, the liaison prosecutors facilitate responses from their respective countries to requests for assistance generated by the Office's trial teams.

70. The joint project of the European Union and the Tribunal also invests in the education and training of young legal professionals from the former Yugoslavia who have a commitment to working on war crimes cases. Since September 2012, a new group of nine young legal professionals from Bosnia and Herzegovina, Croatia and Serbia has been assisting with the casework of the Office of the Prosecutor. During their time in The Hague, they are also invited to attend lectures and presentations on topics related to the work of the Office and the Tribunal more generally.

71. Staff members of the Office who have worked with the legal professionals from the region as part of the project have endorsed the quality of their contributions. The participants have displayed a high level of professionalism and dedication as well as a capacity to learn rapidly and make the most of the opportunities provided to them within the Office. The feedback given by all associated with the project confirms its value in building the future capacity of the countries in the former Yugoslavia to effectively deal with complex war crimes cases.

72. The international community is playing an important role in building capacity for war crimes cases in Bosnia and Herzegovina and the Office of the Prosecutor continues to support these efforts. The Office contributes to European Union efforts to support the implementation of the National War Crimes Strategy as part of the Structured Dialogue on Justice which is taking place in the framework of the Stabilization and Association Agreement for European enlargement. The Office participates in meetings of the international consultative group on the Bosnia and Herzegovina judiciary which is convened by the European Commission in the context of the Structured Dialogue. Representatives of the Tribunal also participate in the meetings of the consultative group convened by the European Union offices in Sarajevo. The Office hopes that, through the Structured Dialogue and other mechanisms aimed at building capacity, greater progress in implementing the Bosnia and Herzegovina National War Crimes Strategy will be observed in the coming months.

73. Building on the success of existing programmes, the Office of the Prosecutor is now identifying other avenues for transferring its expertise on war crimes prosecutions to regional authorities. In particular, as part of examining and recording its legacy, the Office has commenced work on a manual for prosecuting sexual violence crimes aimed initially at practitioners in the former Yugoslavia and ultimately the broader international criminal justice community. The manual is being designed as a user-friendly and practitioner-oriented resource that will record

the Office's best practices and lessons learned for the prosecution of sexual violence crimes. The Tribunal has made an important contribution to improving responses to wartime sexual violence and support is now urgently needed at the national level in the former Yugoslavia to secure justice for vast numbers of sexual violence survivors who remain without redress. UN-Women has expressed interest in the project and is currently exploring funding options to facilitate the Office's work.

3. Regional training needs assessment

74. The involvement of staff of the Office in training initiatives is another important avenue for transferring its expertise to regional prosecutors and others working on war crimes cases. With highly relevant experience and knowledge developed over the past two decades, the Office is uniquely placed to provide training to its regional counterparts.

75. To promote the capacity-building objectives of the Structured Dialogue, the Office engaged in consultations with a view to determining its contribution to future training programmes developed for the judiciary in Bosnia and Herzegovina. Of the wide area of support foreseen under the Instrument for Pre-Accession Assistance, training activities for judges and prosecutors have been identified for support through the assistance programme for 2012 and 2013. Over the past years, there have been a considerable number of training programmes, sometimes overlapping, in which staff members of the Office have been asked to participate. Greater efficiency and better results could be achieved with a more coordinated approach to training; the Office will work with the European Union to promote this outcome while respecting the legal competencies.

76. Specifically, the Office is finalizing an assessment of the training needs of prosecutors in Bosnia and Herzegovina with assistance from a senior expert and in close coordination with the European Union and other international partners such as the United Nations Development Programme and the Organization for Security and Cooperation in Europe. The expert will advise on how best to use the available resources to support war crimes prosecutions in Bosnia and Herzegovina and to develop a more coordinated approach to training. Once the study is completed, its key findings will be shared with the Office's international partners and used to develop future training programmes.

V. Downsizing and preparing for the Residual Mechanism

A. Downsizing posts in the Office of the Prosecutor upon the completion of trial activities

77. The Office of the Prosecutor continues to downsize posts with the completion of trial activities. During this reporting period, the Office downsized six trial teams, resulting in the abolition of 50 Professional posts and 26 General Service posts. In addition to this (and consistent with the Office's budget submission), the Office is on track to downsize one further Professional post and seven General Service posts on 1 January 2013. The Office currently has a total of 207 staff members. As the size of the staff body decreases, the Office is reorganizing its office space to facilitate the eventual consolidation of all Tribunal operations within one building.

78. The Office actively supports measures to assist staff in making the transition from their work at the Tribunal to the next step in their careers. Many staff members have become highly specialized in international criminal investigations and prosecutions but are faced with few opportunities to continue working in this field. The international community has an interest in ensuring that the expertise collected within the Office is not lost to future peace, justice and accountability endeavours upon closure of the Tribunal. In this reporting period, the Prosecutor continued to meet with United Nations officials as well as other officials working in related fields to canvass future employment opportunities for staff members. The Office also continues to support the Tribunal's ongoing initiatives to assist staff through this transition, such as career counseling and training opportunities, and welcomes efforts to expand the array of support available to staff members.

B. Preparations for the Residual Mechanism

79. Preparations are gaining momentum for the commencement of operations of the branch in The Hague of the International Residual Mechanism for Criminal Tribunals 2013. The Office of the Prosecutor is currently preparing the recruitment process for posts in its successor office in that branch so that key positions are filled in good time for the start of its operations. The Office has also begun preliminary preparations for the 2014-2015 budget submission of the Residual Mechanism.

80. The Office of the Prosecutor has maintained its cooperative dialogue with colleagues in the Office of the Prosecutor of the International Criminal Tribunal for Rwanda to ensure an effective and consistent approach to Residual Mechanism matters. The Office of the Prosecutor has participated in interview panels and some other aspects of the selection processes for positions in the Arusha branch. The Office of the Prosecutor is also represented on a working group established by the Residual Mechanism Prosecutor to develop internal policies and guidelines for the Office of the Prosecutor of the Residual Mechanism. In addition, the Prosecutor of the Residual Mechanism met with representatives of the Office of the Prosecutor in The Hague on 4 September 2012 to discuss issues such as recruitment, implementation of the completion strategies of the two International Tribunals and archiving matters.

81. In the next reporting period, the Office of the Prosecutor will rapidly intensify its focus on Residual Mechanism matters to ensure a smooth commencement of the branch in The Hague. With a continuously evolving trial and appeal schedule and the prospect that cases formerly slated for conclusion before the Appeals Chamber of the International Tribunal may be transferred instead to the appeal chamber of the Residual Mechanism, planning for the Residual Mechanism will be a complex and challenging exercise.

VI. Conclusion

82. In the next reporting period the Tribunal will mark the twentieth anniversary of its creation. It will be a time for reflecting on the achievements and lessons learned of the past but also for looking ahead to the future.

83. The next reporting period will see the number of trials reduced to three and a significant increase in appellate cases. To ensure the successful completion of its mandate, the Office of the Prosecutor will continue to implement measures to facilitate the efficient progress of the remaining trials and to devote additional resources to manage the effective progress of appeals. The Office will also continue to prepare for the implementation of the branch in The Hague of the Residual Mechanism in 2013.

84. National prosecutions and regional cooperation are essential to ensuring that the Tribunal's mandate is successfully completed and that its contribution to preventing impunity is not undone. The Office remains concerned about the capacity of States in the region to prosecute those responsible for the thousands of serious crimes, including sexual violence crimes, which remain to be addressed. In the next reporting period, the Office will assess the recommendations from the training needs assessment conducted in this period and develop measures to strengthen training and build capacity for investigations and prosecutions in the region. The Office hopes to see the commitment of resources required for the effective implementation of national war crimes strategies, particularly in Bosnia and Herzegovina. As successful domestic prosecutions will require cooperation among States within the region, the Office also hopes to see greater political and judicial will to improve cooperation. The adoption of the cooperation protocol between the Prosecutor's Offices of Bosnia and Herzegovina and Serbia on the exchange of evidence and information in war crimes cases is an important step in this process.

Enclosures

[Original: English and French]

Enclosure I

Name	*Former title*	*Initial appearance*	*Judgement*
A. Persons convicted or acquitted, 23 May 2012 to 16 November 2012			
Ante Gotovina	Commander of the Split Military District of the Croatian Army	12 December 2005	16 November 2012 Acquitted on appeal
Mladen Markač	Commander of the Special Police of the Ministry of the Interior of the Republic of Croatia	12 March 2004	16 November 2012 Acquitted on appeal
B. Persons convicted or acquitted of contempt, 23 May 2012 to 16 November 2012			
Vojislav Šešelj IT-03-67-R77.4	President, Serbian Radical Party	6 July 2011	28 June 2012 Sentenced to two years of imprisonment
Jelena Rašić	Member of the Milan Lukić defence team	22 September 2010	16 November 2012 Appeal rejected and conviction affirmed

Enclosure II

A. Persons on trial, 23 May 2012 to 16 November 2012

Name	*Former title*	*Initial appearance*	*Start of trial*
Jadranko Prlić	President, Croatian Community of Herceg-Bosna	6 April 2004	"Herceg-Bosna" trial commenced on 26 April 2006
Bruno Stojić	Head of Department of Defence, Croatian Republic of Herceg-Bosna		
Slobodan Praljak	Assistant Minister of Defence, Croatian Republic of Herceg-Bosna		
Milivoj Petković	Deputy Overall Commander, Croatian Defence Council		
Valentin Ćorić	Chief of Military Police Administration, Croatian Defence Council		
Berislav Pušić	Military Police Commanding Officer, Croatian Defence Council		
Vojislav Šešelj	President, Serbian Radical Party	26 February 2003	Trial commenced on 7 November 2007
Mićo Stanišić	Minister, Internal Affairs, Republika Srpska	17 March 2005	Trial commenced on 14 September 2009
Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre, Banja Luka	21 June 2008	
Jovica Stanišić	Head, State Security Services, Republic of Serbia	12 June 2003	Trial commenced on 9 June 2009
Franko Simatović	Commander, Special Operations Unit, State Security Services, Republic of Serbia	2 June 2003	
Radovan Karadžić	President, Republika Srpska	31 July 2008	Trial commenced on 26 October 2009
Zdravko Tolimir	Assistant Commander for Intelligence and Security, Main Staff, Bosnian Serb Army	4 June 2007	Trial commenced on 26 February 2010
Ramush Haradinaj	Commander of the Kosovo Liberation Army in the Dukagjin area	14 March 2005	Partial retrial commenced on 18 August 2011
Idriz Balaj	Commander of the Kosovo Liberation Army Black Eagles Special Unit		
Lahi Brahimaj	Deputy Commander of the Kosovo Liberation Army Dukagjin Operative Staff		
Ratko Mladić	Commander of the Main Staff of the Bosnian Serb Army	3 June 2011	Trial commenced on 16 May 2012
Goran Hadžić	President, Serbian Autonomous District, Slavonia Baranja and Western Srem	25 July 2011	Trial commenced on 16 October 2012

B. Persons accused and awaiting trial, 23 May 2012 to 16 November 2012

Name	*Former title*	*Date of indictment*	*Initial appearance*
None			

Enclosure III

A. Arrivals, 23 May 2012 to 16 November 2012

Name	*Former title*	*Date of indictment*	*Initial appearance*
None			

B. Remaining fugitives

Name	*Former title*	*Place of crime*	*Date of indictment*
None			

Enclosure IV

Appeals completed from 15 May 2012[a]

(with date of filing and decision)

Interlocutory

International Tribunal for the Former Yugoslavia	
1. Prlić *et al.* IT-04-74-Ar65.33	14/03/12-16/05/12
2. Prlić *et al.* IT-04-74-Ar65.32	15/03/12-25/05/12
3. Prlić *et al.* IT-04-74-Ar65.34	15/03/12-11/06/12
4. Prlić *et al.* IT-04-74-Ar65.35	21/03/12-12/06/12
5. Prlić *et al.* IT-04-74-Ar65.36	28/08/12-07/09/12

From judgement

International Tribunal for the Former Yugoslavia	
1. Gotovina & Markač IT-06-90-A	16/05/11-16/11/12
International Criminal Tribunal for Rwanda	
1. Gatete ICTR-00-61-A	03/05/11-09/10/12

Other

International Tribunal for the Former Yugoslavia	
1. D. Milošević IT-98-29/1-A	02/07/12-12/07/12

Referral

International Criminal Tribunal for Rwanda	
1. Ntaganzwa ICTR-96-9-A	08/06/12-05/07/12
2. Munyarugarama ICTR-02-79-AR11*bis*	11/07/12-17/07/12

Review

International Criminal Tribunal for Rwanda	
1. Nahimana ICTR-99-52-R	30/03/12-29/06/12
2. Muvunyi ICTR-00-55A-R	21/03/12-28/09/12

Contempt

International Tribunal for the Former Yugoslavia	
1. Rašić IT-98-32/1-R77.2-A	12/03/12-16/11/12

[a] Total number of appeals completed from 15 May 2012: 13.

Interlocutory appeals: 5
Appeals from judgement: 2
Other: 1
Referral: 2
Review: 2
Contempt: 1

Enclosure V

Appeals pending as at 16 November 2012[a]

(with date of filing)

Interlocutory	
International Tribunal for the Former Yugoslavia	
1. Mladić IT-09-92-AR73.1	04/07/12
2. Karadžić IT-95-5/18-AR73.8	11/07/12
3. Karadžić IT-95-5/18-AR73.8	25/07/12
4. Mladić IT-09-92-AR73.2	20/08/12
5. Karadžić IT-95-5/18-AR73.10	12/10/12

From judgement	
International Tribunal for the Former Yugoslavia	
1. Šainović *et al.* IT-05-87-A	09/03/09
2. Lukić & Lukić IT-98-32/1-A	21/07/09
3. Popović *et al.* IT-05-88-A	18/06/10
4. Đorđević IT-05-87/1-A	04/03/11
5. Perišić IT-04-81-A	13/09/11
International Criminal Tribunal for Rwanda	
1. Military II ICTR-00-56-A	20/07/11
2. Butare ICTR-98-42-A	01/09/11
3. Mugenzi & Mugiraneza ICTR-99-50-A	21/11/11
4. Ndahimana ICTR-01-68-A	17/02/12
5. Karemera & Ngirumpatse ICTR-98-44-A	05/03/12
6. Nizeyimana ICTR-00-55C-A	29/06/12
7. Nzabonimana ICTR-98-44D-A	29/06/12
Other appeals	
Referral	
International Criminal Tribunal for Rwanda	
1. Munyagishari ICTR-05-89-AR11*bis*	19/06/12
Review	
International Criminal Tribunal for Rwanda	
1. Kajelijeli ICTR-98-44A-R	15/06/11
2. Zigiranyirazo ICTR-01-73-R	29/06/12
Contempt	
International Tribunal for the Former Yugoslavia	
1. Šešelj IT-03-67-R77.3-A	14/11/11
2. Šešelj IT-03-67-R77.4-A	18/07/12

[a] Total number of appeals pending as at 16 November 2012: 22.

Interlocutory appeals: 5
Appeals from judgement: 12
Other: 0
Referral: 1
Review: 2
Contempt: 2

Enclosure VI

Decisions and orders rendered from 15 May 2012[a]

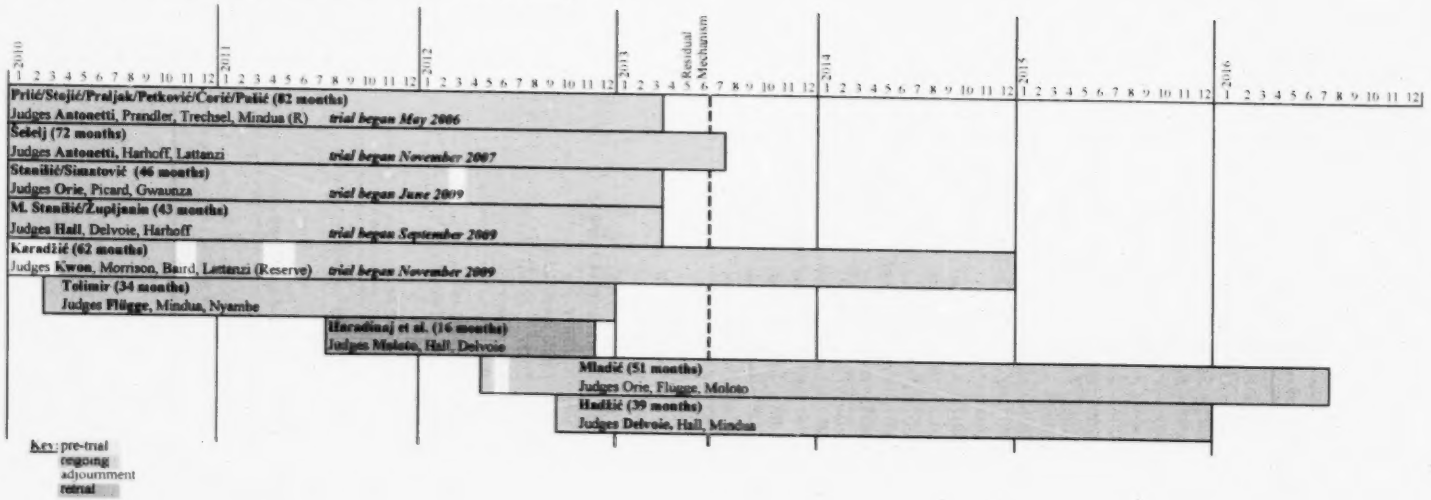
(with date of disposition)

International Criminal Tribunal for Rwanda	*International Tribunal for the Former Yugoslavia*
1. 17/05 – *Military II*	44. 16/05 – *Perišić – Conf.*
2. 17/05 – *Butare*	45. 21/05 – *Gotovina and Markač – Conf.*
3. 21/05 – *Karemera and Ngirumpatse*	46. 21/05 – *Šešelj*
4. 24/05 – *Military II*	47. 23/05 – *Perišić*
5. 24/05 – *Mugenzi and Mugiraneza*	48. 06/06 – *Popović et al.*
6. 31/05 – *Karemera and Ngirumpatse*	49. 11/06 – *Popović et al. – Conf.*
7. 04/06 – *Butare*	50. 14/06 – *Šainović et al. – Conf.*
8. 11/06 – *Military II*	51. 21/06 – *Gotovina and Markač – Conf.*
9. 14/06 – *Karemera and Ngirumpatse*	52. 27/06 – *Lukić and Lukić*
10. 14/06 – *Karemera and Ngirumpatse*	53. 27/06 – *Rašić*
11. 18/06 – *Mugenzi and Mugiraneza*	54. 28/06 – *Gotovina and Markač – Conf.*
12. 20/06 – *Munyagishari*	55. 03/07 – *Lukić and Lukić*
13. 21/06 – *Munyagishari*	56. 03/07 – *Perišić*
14. 22/06 – *Butare*	57. 05/07 – *Šainović et al.*
15. 26/06 – *Nizeyimana*	58. 05/07 – *Popović et al.*
16. 26/06 – *Nizeyimana*	59. 06/07 – *Šešelj*
17. 26/06 – *Nizeyimana*	60. 10/07 – *Perišić – Conf.*
18. 28/06 – *Butare*	61. 10/07 – *Đorđević*
19. 28/06 – *Munyagishari*	62. 16/07 – *Popović et al.*
20. 03/07 – *Zigiranyirazo*	63. 19/07 – *Lukić and Lukić*
21. 03/07 – *Nzabonimana*	64. 20/07 – *Gotovina and Markač*
22. 04/07 – *Military II*	65. 13/08 – *Šainović et al.*
23. 04/07 – *Munyagishari*	66. 23/08 – *Šainović et al.*
24. 05/07 – *Karemera and Ngirumpatse*	67. 23/08 – *Popović et al. – Conf.*
25. 05/07 – *Mugenzi and Mugiraneza*	68. 23/08 – *Perišić*
26. 10/07 – *Butare*	69. 23/08 – *Šešelj*
27. 11/07 – *Butare*	70. 27/08 – *Popović et al.*
28. 18/07 – *Munyagishari*	71. 27/08 – *Popović et al.*
29. 19/07 – *Nizeyimana*	72. 30/08 – *Šešelj – Conf.*
30. 22/08 – *Karemera and Ngirumpatse*	73. 05/09 – *Gotovina and Markač*
31. 22/08 – *Karemera and Ngirumpatse*	74. 12/09 – *Ex Parte*
32. 24/08 – *Butare*	75. 13/09 – *Lukić and Lukić*
33. 07/09 – *Nzabonimana*	76. 20/09 – *Popović et al. – Conf.*
34. 07/09 – *Nzabonimana*	77. 21/09 – *Karadžić*
35. 10/09 – *Mugenzi and Mugiraneza*	78. 24/09 – *Perišić*
36. 12/09 – *Munyagishari*	79. 26/09 – *Popović et al.*
37. 17/09 – *Nizeyimana*	80. 27/09 – *Popović et al.*
38. 24/09 – *Mugenzi and Mugiraneza*	81. 28/09 – *Perišić*
39. 02/10 – *Butare*	82. 02/10 – *Popović et al.*
40. 03/10 – *Karemera and Ngirumpatse*	83. 04/10 – *Popović et al.*
41. 23/10 – *Butare*	84. 05/10 – *Lukić and Lukić*
42. 30/10 – *Munyagishari*	85. 15/10 – *Perišić*
43. 14/11 – *Munyagishari*	86. 18/10 – *Đorđević*
	87. 02/11 – *Gotovina and Markač*
	88. 02/11 – *Đorđević*
	89. 08/11 – *Popović et al. – Conf.*
	90. 12/11 – *Lukić and Lukić*

[a] Total number of decisions and orders rendered: 90

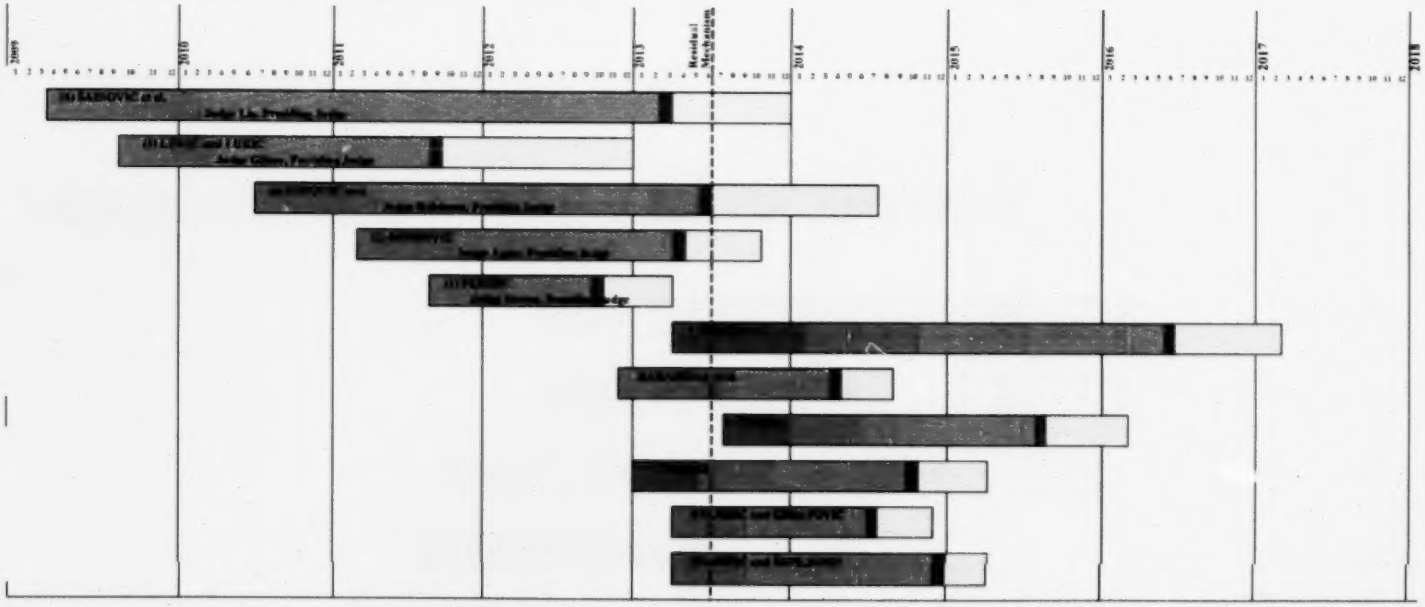
Enclosure VII

Trial schedule of the Tribunal as at 13 November 2012



Enclosure VIII

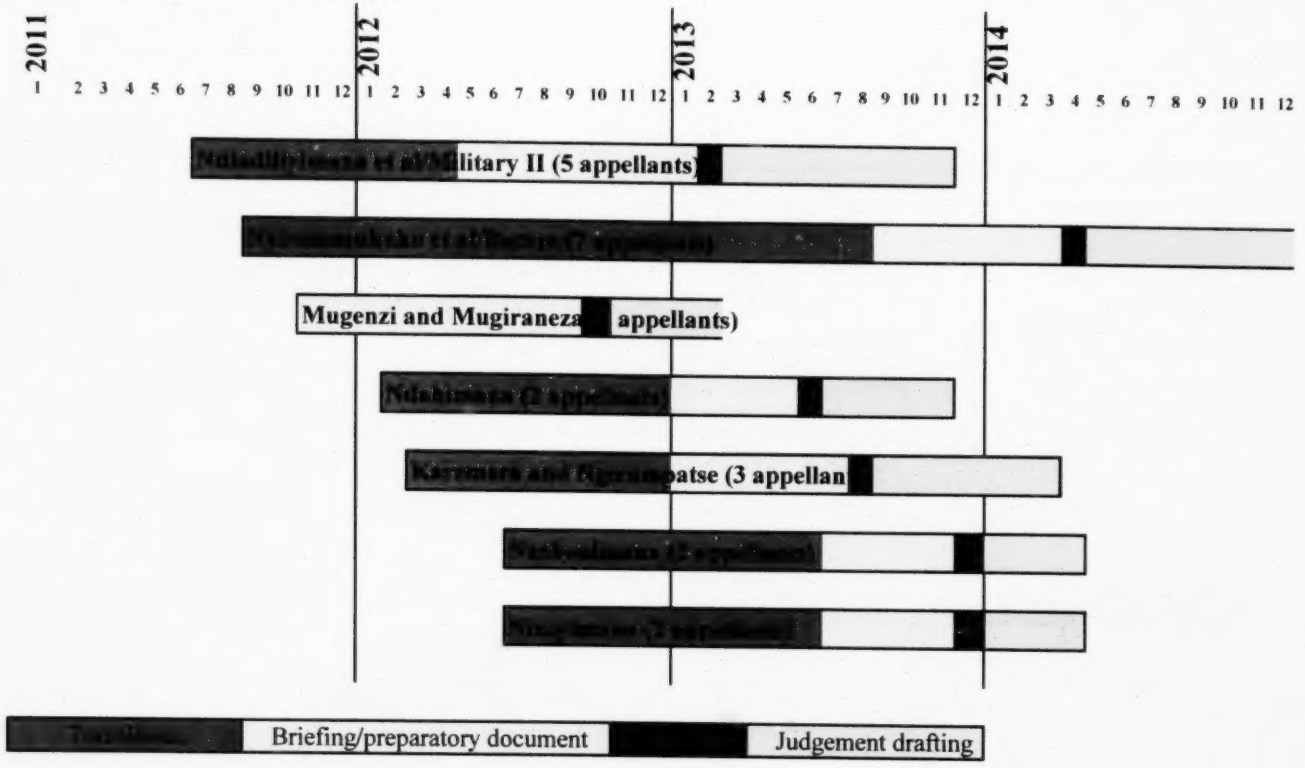
Appeal schedule of the Tribunal as at 16 November 2012


2009
2010
2011
2012
2013
Residual Mechanism
2014
2015
2016
2017
2018
Contempt proceedings on appeal:
Key:
Hearing
Judgement drafting
(including time for filing notice of appeal)
Extension due to Trial Chamber Judgement translation (only for the self-represented accused who do not speak English and for French benches)
* Prlic: Trial Chamber judgement into English: 10 months - solutions being implemented to reduce the total post-judgement translation period to a minimum
** Seselj: Trial Chamber judgement into Bosnian/Croatian/Serbian and English: 5 months
*** Tolimir: Trial Chamber judgement translation into Bosnian/Croatian/Serbian: 5 months
In parentheses: number of appellants

Enclosure IX

Appeal schedule of the International Criminal Tribunal for Rwanda as at 10 October 2012

Based on redeployment of judges and posts


2011
2012
2013
2014
1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4 5 6 7 8 9 10 11 12
litary II (5 appellants)
Mugenzi and Mugiraneza appellants)
atse (3 appellan
Briefing/preparatory document
Judgement drafting